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BEFORE THE
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

In the matter of	)	
REVIEW OF EXISTING REGULATIONS	)	Docket No. FAA-2004-17168-23
Request for Comments	)	

COMMENTS OF SOUTHWEST AIRLINES CO.

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On February 25, 2004 the Federal Aviation Administration ("FAA") published a Notice requesting comments from the public identifying regulations currently in effect that should be amended, removed or simplified to reduce excessive regulatory burdens consistent with the FAA's safety and other responsibilities. 69 Fed. Reg. 8575. The Notice was issued under the ongoing regulatory review program required by Executive Order 12866.

Southwest Airlines Co. ("Southwest") strongly supports the FAA's regulatory review initiative. We urge the FAA to take maximum advantage of this opportunity to modify or eliminate regulations that are unnecessary for safety and impose undue economic burdens on the airline industry.

As requested by the Notice, Southwest is providing the FAA with several recommendations that would reduce unnecessary regulatory burdens on Southwest and

other airlines. Each of these recommended changes is feasible, within FAA's ability to implement, and fully protective of the FAA's responsibility to ensure safety and security:

- Amend the definition of "Extended Over-Water Operation" contained in 14 C.F.R. § 1.1 to allow Part 121 carriers to operate up to 150 nautical miles ("NM") (instead of 50 NM) offshore without triggering extended over-water operations requirements. This modification will enhance aircraft efficiency and lower operating costs by significantly reducing flight time and fuel burn without compromising safety.

- Revise internal FAA procedures to streamline the Environmental Assessment process for routine air service and airport expansion approvals. In addition to reducing the significant delays and expense now associated with OpSpecs environmental reviews, these changes will enhance competition by enabling airlines to respond more quickly to changing market conditions.

- Rescind 14 C.F.R. § 91.205(b)(12), which requires Part 25 airplanes not used for extended over-water operations to carry pyrotechnic signaling devices. Mandating that a flare gun be carried in the cockpit of these aircraft is an unnecessary and hazardous requirement that is without aviation safety justification.

- Eliminate 14 C.F.R. § 25.853(g) and 14 C.F.R. § 121.215(d), which contain outdated requirements to provide lavatory ashtrays and no-smoking signs in the aircraft cabin. Smoking has been banned on commercial flights in the United States for almost 20 years and announcements to this effect are made throughout the flight, making these two requirements wholly unnecessary.

- Remove 14 C.F.R. § 121.703, which requires carriers to file a daily Service Difficulty Report (SDR). Neither the FAA nor air carriers use this report, it duplicates portions of more comprehensive carrier reliability analysis programs, and it costs carriers significant time and personnel resources.

None of Southwest's recommended regulatory changes will have an adverse impact on safety but will eliminate substantial economic and operational burdens from Southwest and other airlines. By way of example, adoption of the first recommendation alone would save Southwest $3.7 million annually due to reduced flight times and fuel

burn. The potential savings for the industry as a whole from these changes would be far greater, of course. Meaningful reduction of the regulatory and cost burden is especially critical now, as U.S. airlines face unprecedented financial challenges in the continuing wake of 9/11, enormous security and insurance costs, and a still-recovering economy. Accordingly we urge the FAA to adopt all of the following recommendations.[1]

I. AMEND THE DEFINITION OF EXTENDED OVER-WATER OPERATIONS TO ENHANCE EFFICIENT AIRCRAFT OPERATIONS AND ALLEVIATE UNNECESSARY DELAYS.

Currently, 14 C.F.R. § 1.1 defines "extended over-water operation" as "an operation over water at a horizontal distance of more than 50 nautical miles from the nearest shoreline." In order to fly beyond 50 nautical miles from shore, aircraft must be equipped with passenger life vests, rafts, and various other over-water safety equipment. In addition, flight crews must complete extended over-water operation training requirements.

The 50 nautical mile limitation was originally established to ensure that aircraft experiencing an inflight engine loss or other mechanical difficulty could safely return to land without being forced to ditch the aircraft at sea. This safety goal remains valid. However, the 50 NM limitation is no longer necessary in light of the combination of modern mechanical reliability, higher cruising altitudes, and the extended ranges of advanced multi-engine turbojet transport aircraft. Engine technology has improved exponentially since this regulation was written. In today's environment, the probability of a dual engine failure in a large turbojet powered aircraft is statistically insignificant. Therefore, the definition of "extended over-water operation" can safely be relaxed to

[1] Southwest also supports the recommendations for regulatory changes contained in the comments filed in this docket by the Air Transport Association.

allow Part 121 carriers to operate up to at least 150 nautical miles offshore without triggering extended over-water operations equipment and training requirements.

This regulatory change would allow domestic carriers, as well as all other carriers operating non-ETOPS certified aircraft in domestic service, greater flexibility to accept over-water routings along the Atlantic, Pacific, and Gulf coasts. Such a change would enhance aircraft efficiency and lower operating costs by reducing flight time and fuel burn into and out of coastline cities. For example, Southwest is currently limited in approach and departure options for most of the Florida cities that it serves, including TPA, FLL, MCO, and PBI. As a result of the 50 NM limit, Southwest incurs a significant number of operational delays on 32 routes between these Florida points, both to the North (to Northeast cities) and West (to points such as New Orleans, Los Angeles, and cities in Texas). These delays would be eliminated if the definition of extended over-water operation were amended to incorporate a 150 NM limit. These delays are especially detrimental to point-to-point operations like that of Southwest where a single delay can easily cascade into back-ups throughout the day, impacting many subsequent flights by the same aircraft and the passengers booked on those flights. In the case of Southwest Airlines, the ability to route aircraft up to 150 NM offshore for its 452 weekly coastline flights would save over $3.7 million in annual operating costs by reducing fuel consumption and flight time.

In addition to enhancing air carrier operating efficiency and asset utilization, this amendment will give FAA Air Traffic Control more flexibility in times of inclement weather to schedule air carrier approach paths to coastline airports. With air travel rebounding, ATC congestion is again a concern, and this amendment would give ATC

another tool with which to address congestion. For example, only aircraft qualified for extended over-water operations currently can take the Atlantic Route ("AR") when flying between Northeast cities and Fort Lauderdale. The AR route is more direct and allows airlines to remain in the air traffic flow, which saves valuable time en route and more efficiently utilizes limited air space.

> ***Request:*** ***Amend 14 C.F.R. § 1.1 to specify that, with regard to Large, Turbine-Powered, Multi-engine Aircraft, the definition of "extended over-water operations" means "an operation over water of a horizontal distance of more than 150 nautical miles from the nearest shoreline."***

II. STREAMLINE FAA'S INTERNAL PROCEDURES TO ENSURE THAT THE ENVIRONMENTAL ASSESSMENT PROCESS FOR ROUTINE AIR SERVICE AND AIRPORT EXPANSION APPROVALS DO NOT CHILL AIRLINE COMPETITION.

Currently, the National Environmental Policy Act (NEPA) and Executive Order 11514 require that whenever a federal agency undertakes "major federal actions significantly affecting the quality of the human environment" it must conduct an environmental analysis of that action and abide by the procedural requirements of NEPA. 42 U.S.C. § 4332(C). FAA Order 10501D, Policies and Procedures for Considering Environmental Impacts, is the FAA directive implementing these NEPA and E.O. 11514 requirements.

In recent years, air carriers have been forced to undertake considerable effort and expense to obtain environmental approval of Operating Specifications amendments for service to airports and airport expansion projects as part of the NEPA review. OpSpecs govern the class and size of aircraft to be operated by an air carrier at specific airports to ensure that those specific aircraft can be operated safely at the designated

airports. Until the past few years, FAA environmental procedures allowed carriers to introduce new scheduled jet service at an airport already served by other turbojet operators, as well as proceed on many typical airport development projects, under a categorical exclusion from NEPA review, unless extraordinary circumstances were present.

The costs currently associated with the NEPA process act as an unwarranted barrier to entry for carriers seeking to offer new service at airports, particularly at small airports. The cost of the NEPA review process can be significant, and the lost revenue resulting from an unnecessary delay in new service or capacity enhancing facility projects can range into the millions of dollars. Recently, Southwest Airlines spent well over $100,000 in consultant fees, employee hours, and travel to obtain an OpSpecs amendment for its much-heralded new service to Philadelphia. More importantly, this process came down to the wire and almost prevented the start-up of the first meaningful low-fare competition into the Philadelphia market. In our view, being forced to undergo such a painstaking environmental review simply to add 14 new flights to an airport that is already served by 29 airlines with over 570 daily flights was totally unnecessary, punitive, and anti-competitive.

Thus, in addition to the considerable expense involved, the delays and uncertainties associated with OpSpecs environmental reviews have a chilling effect on airline competition. The hurdles imposed by the current OpSpecs requirements unnecessarily hinder carriers' ability to add flights quickly to new or under-served locations and therefore impede efficient responses to changing market conditions.

Request: Revise FAA's internal procedures to streamline the Environmental Assessment process for routine air service and airport expansion approvals, particularly OpSpecs amendments. In addition, the FAA should create standardized environmental metrics to evaluate standard operational addition or changes.

III. ELIMINATE THE REQUIREMENT THAT PART 25 AIRCRAFT NOT ENGAGED IN EXTENDED OVER-WATER OPERATIONS MUST CARRY PYROTECHNIC SIGNALING DEVICES.

Transport category airplanes used for extended over-water operations are required to be equipped with long-range signaling devices (*i.e.*, flare guns). Although Southwest Airlines does not conduct extended over-water operations, the FAA requires that a flare gun be carried in the cockpit of its aircraft pursuant to 14 C.F.R. § 91.205(b)(12) – due solely to the fact that the standard departure path from Los Angeles International Airport ("LAX") extends for a short distance offshore. Specifically, 14 C.F.R. § 91.205(b)(12) provides that if an aircraft is operated for hire over water and beyond power-off gliding distance from shore, approved flotation gear must be readily available to each occupant and at least one pyrotechnic signaling device must be carried on board.

No safety justification exists to require Part 25 aircraft not engaged in extended over-water operations to be equipped with pyrotechnic signaling devices. The risk of a modern multi-engine turbojet airplane experiencing a total power loss on take-off and not being able to return to the departure airport for an emergency landing is extremely low. Moreover, no formula or graph exists to determine the power-off gliding distance of Part 25 airplanes in all situations. Even if an aircraft had to ditch in the ocean during a brief over-water take-off, its location would be very near to shore and easily pinpointed by Departure Control radar. Assuming a pilot could even locate and fire a flare gun in

the frenzy following a ditching at sea, the minimal value it would provide in locating the aircraft is far outweighed by the on-going danger of having to carry a pyrotechnic device in an already cramped cockpit. Among other problems, this is a device that cannot be extinguished if accidentally triggered during flight. This requirement is unnecessary, hazardous and without aviation safety justification. It should be eliminated immediately.

Request: Rescind 14 C.F.R. § 91.205(b)(12) which requires Part 25 airplanes not used for extended over-water operations to carry pyrotechnic signaling devices.

IV. ELIMINATE OUTDATED REQUIREMENTS THAT AIRLINES PROVIDE LAVATORY ASHTRAYS AND LIGHTED NO-SMOKING SIGNS.

Smoking has been banned on U.S. carriers for almost two decades. The flying public is well aware of this prohibition. However, two FAR's that pertain to smoking on board the aircraft remain in place. They are both unnecessary and costly to air carriers and should be eliminated. 14 C.F.R. § 25.853(g) requires that regardless of whether smoking is allowed in any part of the airplane, at least one lavatory must have a self-contained, removable ashtray located conspicuously on or near the entry side of the lavatory door. In addition, 14 C.F.R. § 121.215(d) requires that each airplane compartment where smoking is not allowed must be equipped with placards against smoking.

As noted, smoking on domestic flights has long been prohibited by federal law. FAA regulations require flight attendants to make standard announcements on every flight reminding passengers of this, aircraft lavatories are equipped with smoke detectors, and passengers face stiff fines for any violations. Clearly, requiring air carriers to locate an ashtray on the outside of the lavatory door serves no purpose.

Moreover, the lighted no-smoking sign at every seat is unnecessary since the public is well acquainted with the smoking ban. Any violation, *i.e.*, a passenger who tries to light a cigarette while seated, would be easily detected by the surrounding passengers and flight attendants.

Unfortunately, the required ashtrays are often stolen or broken by passengers and must be replaced. In addition, the light bulbs required to light the no-smoking signs burn out and also must be replaced on a regular basis. Each ashtray and sign must be maintained and inspected on every one of Southwest's 400 aircraft. Performing these inspections and the required maintenance costs Southwest alone more than $200,000 annually.

Request: Revise 14 C.F.R. § 25.853(g) and 14 C.F.R. § 121.215(d) to eliminate outdated but costly requirements to provide on board ashtrays and lighted no-smoking signs.

V. ELIMINATE REQUIREMENTS FOR AIR CARRIERS TO FILE MAINTENANCE REPORTS THAT ARE NOT UTILIZED OR ARE REDUNDANT.

Currently, 14 C.F.R. § 121.703 requires each certificate holder to file a Mechanical Reliability Report, also known as a Service Difficulty Report (SDR), on the daily occurrence or detection of each failure, malfunction, or defect on any of 17 different systems within the aircraft. Each carrier is required to complete this report in only 72 hours, and it must be submitted to the FAA on a daily basis.

This report duplicates more extensive ongoing efforts already underway by individual carriers to track and analyze reliability data. Southwest Airlines employs an entire department that examines aircraft and system performance trends and reliability

information. Moreover, Part 121 carriers already forward this more comprehensive reliability information to the appropriate FAA representatives. From Southwest's experience, there appears to be no need or use for the SDR report for either air carriers or the FAA.

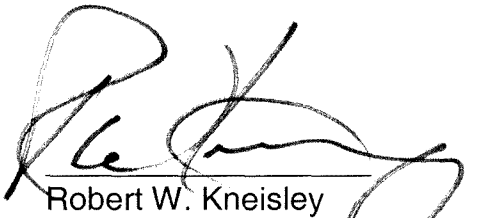
However, preparing these reports requires airline maintenance personnel at Southwest to review more than 1,000 daily discrepancies associated with its 400 aircraft and 2,800 daily flights, and to sort them for possible inclusion in the report. Each discrepancy that is captured in Southwest's comprehensive maintenance event database must be individually examined to determine whether or not it meets the criteria for inclusion in the SDR. To fulfill this requirement, Southwest employs two highly qualified and experienced fulltime employees. The cost to Southwest of applying these employee resources to this unnecessary requirement is over $200,000 annually. Because these reports are duplicative, onerous to complete, and unnecessary, the FAA should eliminate them immediately.

Request: Remove the redundant reporting requirements contained in 14 C.F.R. § 121.703 immediately.

CONCLUSION

The regulations and practices addressed above impose unnecessary and unjustified burdens on U.S. air carriers. The modifications that Southwest seeks will have no practical effect on FAA's safety responsibilities or other statutory priorities, yet will produce significant savings for air carriers, encourage airline competition, and help alleviate ATC congestion. Accordingly, we urge the FAA to implement each of these recommendations as soon as possible.

Respectfully submitted,



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